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Kim Clark Phillips, Chairman of Board
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Tommy Garner, Commissioner
Chad Wagoner, Commissioner
Brady Wooten, Commissioner

Jim Graham, County Attorney
Eric Williams, County Manager
Gina Brown, Clerk to the Board

MEETING REPORT

Subject:
5D Board Update Meeting

Issue Date:
29 February 2008

Place/Date of Meeting:
Board of Commissioners Room, 26 Feb 2008

Copies:
All participants

Minutes by:
Alex Apple

Persons Present:

Kim Clark Phillips, Chairman,
Commissioner
Joel Cornelius, Vice-Chair,
Commissioner
Tommy Garner, Commissioner
Chad Wagoner, Commissioner
Brady Wooten, Commissioner
Jim Graham, County Attorney
Eric Williams, County Manager
Lenuel Chamberlain, Chairman,
Soil & Water
Joe Dezern, Yadkin Soil & Water
Jo R. Linville, Soil & Water

Bobby Matthews Jr., Soil & Water
Grady Shore, Soil & Water
Jason Walker, Soil & Water
Ben Harding, YC Attorney
Don Basinger, Schnabel Eng.
Tillman Marshall, Schnabel Eng.
Randy Darden, ARCADIS
Alexandra Apple, ARCADIS
Vernon Cox, NC DSWC
David Harrison, NC DSWC
Mary Combs, NRCS
Jacob Crandall, NRCS
Mike Hinton, NRCS

Tommy Cutts, NRCS
BJ Cook, NRCS
Angela D. Little, NRCS
Jill Malton, NRCS
Kevin Austin, Citizen
Jimmy Steelman, Citizen
Patti Steelman, Citizen
Peggy Boose, Citizen
Richard Whelpley, Citizen
LaKeel Whelpley, Citizen
Mark Geador, Citizen

Chairman Kim Clark Phillips called the meeting to order at 6:02 pm and asked that Chairman Lenuel Chamberlain begin introductions of the Yadkin Soil & Water Conservation District Board. Ms. Mary Combs of NRCS concluded the NRCS introductions. The remaining meeting attendees made their own introductions.

Chairman Phillips expressed her appreciation for those attending the meeting, thanking everyone for their years of service on the project and highlighting the joint effort between the federal, state, and local agencies.

Mr. Don Basinger of Schnabel Engineering began the review of permits with the 404 permit. Mr. Jason Walker, of Yadkin Soil & Water updated the current

status, stating he had received an email from the Corps of Engineers saying that the permit was on the top of their priority list and should be received soon. Commissioner Joel Cornelius asked that Mr. Basinger give more detail to the content of these permits. Mr. Walker explained that the 404 is a permit from the US Army Corps of Engineers required whenever state waters are being filled in. The 401 is a similar permit but it is given by the state. The 401 has been acquired and is activated once the 404 permit is received.

Commissioner Brady Wooten asked if these permits were the ones approved at the previous BOC meeting.

Mr. Walker said that the permit discussed at the previous Board meeting was the CLOMR, or Conditional Letter of Map Revision, and he referred to Mr. Basinger to further describe the CLOMR.

Mr. Basinger relayed that the CLOMR is required if a project would affect the 100 year flood line more than 1 foot, as in the case of this project. Thus, a study would need to be done to apply for a permit that would create a new flood map for the affected project area. The study is attached to an application for the CLOMR permit, all which would have to be reviewed and a notification process undergone to complete the review process. Mr. Basinger emphasized the importance of beginning work on the application as soon as possible to help expedite the review process, which may take four to six months to complete before the CLOMR is approved.

Mr. Walker asked that Mr. Basinger speak about the Erosion and Sedimentation Control Permit. Mr. Basinger explained that a permit was held in 2004, but was only valid for 3 years. The county paid a fee for this plan to the erosion control office in Winston-Salem. At that time, the project was planned to be done in two stages, a clearing stage and a construction contract stage. The erosion control office considered the project to be a construction project, and required a detailed erosion control plan as a result, even though only clearing would be done on the site. Because of the delay and with the new concept of the project as one-stage, the erosion control plan will be much simpler and lower cost. Mr. Basinger is attempting to lobby with Jim Simon in the Raleigh office to consider waiving or reducing the fee since it was paid by the county the first time, and only a revision is required. The erosion office is completely satisfied with the new planned revisions, and Schnabel is in the process of completing the revisions to this new plan.

Mr. Basinger then began to explain the Dam Safety Permit, relaying that the state had decided they would not do a thorough review since NRCS was already reviewing the plans. Instead, Jim Simon would issue a letter to Tommy Cutts of the NRCS office, concurring with proceeding with the construction of the dam, providing that the state is provided with a set of as-built plans that they will add to their inventory at the end of construction. The significance in this is that the state

dam safety office will not issue a permit to construct and thus will not charge the fee for permit review.

Commissioner Wooten asked who requires these permits. Mr. Basinger replied that if a dam structure is being modified or constructed, the state dam safety laws require that a permit be issued. This allows the state to review the plans, add them to their inventory, and inspect the structures after construction. Federally designed projects, as this one is, may be allowed waivers from the state reviews.

Mr. Basinger and Chairman Phillips asked if any questions remained regarding the permits.

Chairman Phillips asked that Mr. Basinger begin to provide the cost estimate.

Mr. Basinger described the costs as follows:

<i>Service</i>	<i>Estimated Cost</i>
Earth Embankment/RCC Dam	\$18,268,519
Water Supply Piping & Appurtenances	\$920,478
Construction Contingencies	\$3,244,203
NRCS Mitigation	\$500,000
Construction Contract Support and Inspection (Phase 8)	\$2,000,000
CLOMR application fee	\$4,400
CLOMR application services	\$35,000
LOMR application fee	\$4,400
LOMR application services	\$5,000
Erosion & Sedimentation permit	\$18,000

Total Project Cost: \$25,000,000

These estimates are valid for construction seasons 2009 and 2010.

Commissioner Wooten asked if a copy of the estimate was available. Mr. Basinger replied he would provide the commissioners with copies of the breakdown of the total project costs the next day.

Chairman Phillips asked if there were any questions regarding the cost.

Randy Darden added that Schnabel had undergone several design alternatives to verify the cost effectiveness of the structure. Mr. Basinger verified that 13 different alternatives had been studied.

Chairman Phillips indicated that Ms. Mary Combs, State Conservationist with NRCS, would explain the USDA portion of the earmarked funds. Ms. Combs noted that it was remarkable to see the federal funds being allocated, especially since the budget for this particular type of program has dropped from 100 million

dollars a year to about 38 million dollars this year. She mentioned that the agency has much experience over 40 or 50 years with building many of these types of dams across the country, and that it was exciting for them to work with Yadkin because of the efforts the county has made so far in acquiring land rights, matching funding, permits, and the earmark. She thanked the county for the enthusiasm she and her staff had felt from all involved. Ms. Combs explained that an earmark is thus named because a congress person has earmarked specified funds for a certain project. The total earmark that NRCS received from congress for the deep water project totaled \$4,940,200. The reason the amount was not exactly 5 million dollars is because of the rescission rate of .078% that congress imposed on itself, which is subject to every project and every earmark. NRCS divides the funds received into financial assistance dollars (or construction dollars) and technical dollars. Ms. Combs explained that furthermore, NRCS has a responsibility to see that the public dollars are spent appropriately. Therefore, NRCS will have a significant involvement in this project on behalf of the taxpayers to ensure that the project is carried out according to NRCS standard. This is why the technical dollars are allocated. She emphasized that the concept of an administrative fee does not apply but that NRCS must have significant involvement in the project to protect the public. The total technical assistance dollars that came with the earmark include \$823,400. This makes \$4,116,800 available for the project cost, the amount that NRCS would be prepared to enter into a project agreement with Yadkin County. Ms. Combs then described some of the items that the technical assistance dollars would go towards, including involvement of the state engineer, design engineer, inspection services, and contracting services.

Chairman Phillips asked if anyone had any questions for Ms. Combs.

Commissioner Wooten asked that the county be provided a list of a breakdown of anticipated technical services that might be rendered as well as itemized list of their costs.

Ms. Combs indicated that she would provide such a list.

Chairman Chamberlain asked if any of the technical services might offset any contingency items.

Ms. Combs said that the project agreement did not allow for that.

Commissioner Cornelius asked if NRCS were going to do this job, if the county would have to pay NRCS for the technical services regardless if NRCS took the money from the earmark or not.

Ms. Combs replied that the technical services would apply if a project was funded through normal procedures or through earmark procedures.

Commissioner Cornelius asked if normal funding meant that if the client were a private organization, they would still be subject to the technical services.

Ms. Combs replied that regardless of how a project were funded, if NRCS had money allocated in their budget to the project even without an earmark, NRCS would be subject to the same rules if they were involved with the project.

Commissioner Wooten asked how the technical services would be funded for the project if the county were building the project without an earmark.

Ms. Combs replied that if the county was building the project on its own, without the NRCS being involved, then NRCS would not provide technical services for the project.

Commissioner Wooten asked if the services would be free of charge.

Ms. Combs repeated that NRCS would not be involved and that the county would have to acquire their own services.

Chairman Phillips asked if Yadkin would have to pay NRCS for their services if they were involved in this case.

Ms. Combs said that the NRCS would not be involved in any case unless they are directed by Congress according to their budget.

Commissioner Wooten remarked that the county would have to hire someone else to provide the technical services if the county were doing this on their own.

Ms. Combs affirmed.

Commissioner Wagoner asked if it would cost more to use an outside organization than to use NRCS.

Ms. Combs referred to Mr. Basinger.

Mr. Basinger relayed that it was difficult to say, especially since both engineering services from Schnabel and NRCS services would be needed in this case, because the project is federally funded.

Ms. Combs then asked her staff to clarify or add to anything she had mentioned.

Mr. Tommy Cutts said he did not envision a replication of inspection or field work between NRCS and the Schnabel overseers, but that each employee would be productively involved. He also mentioned that the state expects a certain amount of oversight and involvement from the federal agency in order to waive the dam safety permit that Mr. Basinger mentioned previously. Furthermore, Mr. Cutts

questioned whether the technical services amount allocated is enough considering the construction of the project may last three years, over which the amount allocated may be stretched thin.

Mr. Williams then suggested that if any difficulties arise at the permit or review level, that NRCS may be invaluable in helping to resolve any issues.

Mr. Basinger explained the type of permits. He mentioned that Jason was handling the 404/401 permit and that Schnabel has had no involvement with those permits. He explained that Schnabel developed the erosion control plans and thus handles all the issues that may arise with erosion control. The same is applicable to the dam safety permits, in that Schnabel communicates with DENR, handling their questions and issues at no additional fee. These two permits would not require anyone else coming in and handling these issues.

Mr. Jacob Crandall relayed that NRCS indeed assisted the county in acquiring the 404/401 permits.

Mr. Williams clarified that he believed that there was value in the technical services relating to helping overcome obstacles in the permitting, review process, or in the relationship between the state and federal government.

Ms. Combs offered that a positive benefit had been mentioned in the discussion.

Mr. Basinger mentioned that initially in the CLOMR process, NRCS had two of their employees assisting Schnabel to build report with the state to get agreement on how they would work together with the state on the CLOMR.

Mr. Williams confirmed that that was his point.

Mr. Cutts added that many decisions would have to be made in the field and that NRCS would be available to concur with Schnabel so that both organizations are able to approve the final design and submit it to dam safety so in a sense have joint certification of the final built product.

Commissioner Wooten asked if NRCS did not have staff to provide the technical assistance at the time that it was needed, if NRCS would hire outside contractors to do that.

Ms. Combs said that NRCS does have a vehicle by which to do that but their estimation was that they did have staff.

Commissioner Wooten asked if the outside contractors would be paid from the technical services allocation.

Ms. Combs affirmed that they would.

Chairman Phillips asked if there were any additional questions. She asked Mr. Crandall to speak about Rural Development funds available.

Mr. Crandall said there was a possibility of loan or grant funding.

Chairman Phillips asked if these were matched funds.

Mr. Crandall said no, that it was a matter of applying for a loan.

Mr. Williams mentioned that Mr. Cooper was the state director and had remarked that loan rates may be lower coming from other organizations. Mr. Williams said grant funds may be attained after establishing a relationship with Mr. Cooper, which is the only avenue the county would want to pursue.

Chairman Phillips asked that Mr. Vernon Cox give a summary of the funding that the state could provide. Mr. Cox explained that the state has an existing watershed grant program which is funded through appropriations of the general assembly. Only projects developed under the PL 566 federal program with a work plan published by the NRCS are eligible for this grant. The state has obtained 6.5 million dollars to support this program and has already expended 1.8 million dollars to the project, primarily for land rights and engineering services. The state has 4.7 million dollars remaining to support this project. Mr. Cox has already submitted a preliminary request through the department for additional funds for this project. He will let them know of the latest cost estimate and the need for funds that would be available to support this project. The general assembly will be back in session in May, which would be the next opportunity to obtain funds for the project.

Chairman Phillips mentioned that the county may need an additional 5 million dollars from the state.

Mr. Cox affirmed that based on the cost estimate they were provided today, that was the amount that would be asked for based on what had already been obtained.

Chairman Phillips asked if the amount were possible.

Mr. Cox suggested that it was a good situation to be in this year, in that this project is a water supply project and water supply is a critical need across the state. This makes it an opportunity to provide for a resource that is in short supply. Mr. Cox added that an allocation of 5 million dollars had never been given in one allocation, so work needed to be done to make sure that the legislators understand the importance of the project.

Chairman Phillips clarified that required funds after the earmark would be split 50/50 with the state. Mr. Cox added that the state could only fund non-federal cost of land rights, engineering services and construction costs, and some of the water supply structural costs. Permit costs would not be shared with the state.

Commissioner Wooten asked if 5 million dollars would cover the costs.

Mr. Cox said 5 million dollars could be justified based on the 50% match with local funds after the earmark.

Chairman Phillips asked Mr. Williams to describe local contribution possibilities.

Mr. Williams relayed that it was premature to clearly identify funding sources. 1.6 million dollars are currently in hand for the project. He mentioned grant funds available from Rural Development, as well as loan funds from the DENR revolving loan fund. Finally, there exists the possibility of borrowing capacity.

Commissioner Cornelius mentioned the state referendum on sales tax to support infrastructure development, though a special election would have to be held.

Mr. Williams added the educational time period required that would be needed to inform the public before an election may not be available before the project is ready to bid.

Chairman Phillips then asked that Mr. Randy Darden give a timeframe outline for the project and that the Schnabel proposal to approve preparation of the CLOMR application be handed out to the commissioners.

Mr. Williams reaffirmed the County Commissioners of their past action to proceed moving forward with the 5-D project and of their letter to Ms. Combs relaying their intent to enter into a project agreement no later than September 30. Mr. Williams stated the fees outlined in the proposal could be paid for through the capital projects fund.

Mr. Darden relayed that the timeframe relied on the status of the permits. The critical permit is the CLOMR permit, which is the proposal the board had in hand. Mr. Darden repeated Mr. Basinger's assertion that Schnabel will complete the application within a month to begin the review and approval process, which may take a 4 to 6 month timeframe, a date very close to the deadline set by NRCS to enter into a project agreement. Mr. Darden emphasized the importance of allowing Schnabel to officially begin the application process as soon as possible by approving their CLOMR proposal. He added that it would be premature to talk about a bid schedule since it was unknown when all the permits would be acquired.

Ms. Combs requested that they begin immediately to set in place the vehicle that obligates the federal funding and suggested that August may be a more reliable goal for finalizing a project agreement.

Chairman Phillips asked about the origination of the project agreement document.

Ms. Combs said that NRCS originates the document. Mr. Hinton added that they would draft it and the Yadkin Board of Commissioners would sign it.

There was discussion about the Town of Yadkinville's involvement with the project and the status of their 20-day storage facility.

Commissioner Wooten asked for an estimate of the county portion of the project.

Commissioner Cornelius suggested 12-13 million dollars, 10.5 if 5 million were allocated from the state.

Mr. Darden asked what would happen if the CLOMR process extended past the NRCS deadline.

Ms. Combs said the money needed to be obligated to a project agreement no later than September 30th and that they would be as flexible as they possibly could be.

Commissioner Wooten asked what would happen if the county could not provide the funds.

Chairman Phillips said one of the requirements for entering into the project agreement was a letter certifying that the county did have the funds available.

Commissioner Tommy Garner implied that the county could not afford to forsake the project.

Mr. Williams added that the county would need to refund the money invested into the project by the state if the project were not built. He asked that the NRCS continue to work in partnership with the county and make them aware if anything could be done to continue to expedite the process.

Chairman Phillips moved the meeting into an open discussion time.

Mr. Ben Harding relayed that the mitigation processes have become much more difficult than they were at the time the county began their mitigation planning. If the county were to begin again with the mitigation at a later time, it would be unlikely to acquire mitigation permits again. He asked if all permits needed to be in hand before the project agreement was signed.

Ms. Combs replied that it was NRCS policy to do so, and that much of the documentation could be started and reviewed to be ready to sign once the permits were in place.

Mr. Harding asked if an understanding could be reached regarding the 100 year flood issue.

Ms. Combs replied that NRCS would do what they could to help the process.

Mr. Harding referred to the value that the technical services would provide to the county. He talked of the long history of the project and how waiting any longer would certainly cause the costs to increase. He then added that this was an excellent opportunity for Yadkin County economic development and if it were not done now, it would likely never happen.

Mr. Williams added that permits must be in hand if the county applied for any debt service.

Chairman Phillips referred to the Schnabel proposal and asked that the Commonwealth of Virginia phrase be changed to the State of North Carolina. She entertained a motion to accept the contract.

Commissioner Wooten asked that the decision be made at the Board meeting on Thursday.

Chairman Phillips said that was possible but that the Board had already agreed to pay for the CLOMR at a prior meeting.

Commissioner Cornelius made a motion to approve the proposal with the changes made.

Commissioner Garner seconded the motion.

Commissioner Wooten asked again if they could wait until Thursday.

Commissioner Garner said there was no reason to put it off any longer.

Commissioner Cornelius said that the project must be done somehow, someday and that they could not delay when they were looking at a deadline that may already be in jeopardy.

Chairman Phillips added that they would not have the funding decisions answered by Thursday.

Commissioner Wagoner added that the proposal had nothing to do with the funding down the road but only addressed the CLOMR that needed to be approved.

The Board voted 4-1 on the motion to accept the proposal, Commissioner Wooten opposed.

Chairman Lenuel Chamberlain expressed his enthusiasm and gratitude to be able to see the efforts placed by many people for many years begin to come to fruition.

Mr. Williams made closing remarks, thanking Ms. Combs for her presence and encouraging the federal, state, and local partners to continue to work hard in their partnership.

Commissioner Garner made a motion to adjourn. Commissioner Wooten seconded.

Chairman Phillips adjourned the meeting at 7:25 pm.